

FORTY-FIFTH DAY

(Monday, April 3, 1939)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Stevenson.

The roll was called, and the following Senators were present:

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield
Moffett	

Absent

Head Spears

A quorum was announced present.

The invocation was offered by the Chaplain.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of Friday, March 31, 1939, was dispensed with and the Journal was approved.

Leaves of Absence Granted

Senator Spears was granted leave of absence for today, on account of important business, on motion of Senator Graves.

Senator Head was granted leave of absence for today, on account of important business, on motion of Senator Burns.

Senate Concurrent Resolution 29

Senator Winfield offered the following resolution:

Whereas, The history of the State of Texas is abundantly rich in the record of great deeds accomplished by her citizens, and

Whereas, It is right and proper that the memory of those who performed the feats that have so en-

riched our history should be cherished and revered, and the locations of the places where these deeds of renown were performed should be known to all and preserved for the honor and glory of all great Texans, all to the end that the present generation and all posterity may more fully appreciate the greatness of those who have helped make our history, and from this appreciation develop and foster a deep and abiding loyalty to our State, and

Whereas, The late Judge Roy Bean did, during his lifetime, do and perform many memorable acts and deeds in his just, though sometimes unique, administration of "The Law West of the Pecos" in his Temple of Justice known as the "Jersey Lily" at Langtry, Texas, and

Whereas, The State Highway Department of Texas has acquired possession and ownership of the renowned and hallowed edifice wherein the law, just but rough, and equity, fair but unbound by trite maxims, were so fearlessly and effectively dispensed by Judge Roy Bean. Now, therefore, be it

Resolved by the Legislature of Texas, That the Highway Department be requested, instructed, and directed to restore and perpetually preserve the "Jersey Lily" in all of its pristine glory to the end that the fame of the Law West of the Pecos may never diminish, and the legends of Judge Roy Bean and the "Jersey Lily" may ever be told and appreciated.

The resolution was read; and on motion of Senator Winfield and by unanimous consent, it was considered at this time, and was adopted.

Senate Concurrent Resolution 30

Senator Moffett offered the following resolution:

Whereas, The State Highway Department of Texas has a large quantity of discarded guard wire in Archer County; and

Whereas, The Archer City Independent School District of Archer County anticipates a large number of people attending athletic events to be held in the near future; and

Whereas, It will be necessary and important to said school district to fence the grounds where said athletic events will be held; and

Whereas, It would be a great accommodation to said school district if the State Highway Department were permitted to loan said district the discarded wire hereinabove mentioned for the purpose of fencing the grounds; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring, That the State Highway Department of Texas be authorized to loan to the School Board of the Archer City Independent School District sufficient quantities of the discarded wire hereinabove mentioned for the purposes as hereinabove set out, said school board to return such wire upon request of the State Highway Department, and it is so resolved.

The resolution was read; and on motion of Senator Moffett and by unanimous consent, it was considered at this time, and was adopted.

Minority Report on Senate Bill 88 Adopted

Senator Burns moved that the minority report on S. B. No. 88 be adopted in lieu of the report of the Committee on Public Printing on the bill.

Yeas and nays were demanded, and the motion prevailed by the following vote:

Yeas—17

Aikin	Lanning
Beck	Nelson
Burns	Pace
Collie	Redditt
Cotten	Small
Graves	Stone
Hardin	of Washington
Isbell	Van Zandt
Kelley	Weinert

Nays—12

Brownlee	Roberts
Hill	Shivers
Lemens	Stone
Martin	of Galveston
Metcalfe	Sulak
Moffett	Winfield
Moore	

Absent

Head	Spears
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Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,
Austin, Texas, April 3, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

H. B. No. 580, A bill to be entitled "An Act authorizing and empowering any city to issue its negotiable bonds, payable from revenues other than taxation, for the purchase, construction, repair, improvement, extension or enlargement of its water system, sanitary sewer system, natural gas system, or electric light and power system, the purchase of additional water powers, lands for reservoirs, sewage disposal plants and other water or sewer purposes, and riparian rights, and the purchase and improvement of parks and/or swimming pools, or either one or all of said purposes, etc., and declaring an emergency."

Respectfully submitted,

E. R. LINDLEY,

Chief Clerk, House of Representatives.

Reports of Standing Committees

Senator Pace, by unanimous consent, submitted at this time the following report of the Committee on Mining, Irrigation and Drainage:

Austin, Texas,
March 31, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Mining, Irrigation and Drainage, to whom was referred

S. B. No. 366, A bill to be entitled "An Act defining 'State Designated Highways'; providing for development for oil or gas by the State of State Designated Highways in tracts, the size of which to be determined by the Board of Mineral Development; providing method of advertising for proposals to lease and drilling by Board of Mineral Development, and for compensation to State in money and oil and gas; providing for receiving bids by Board of Mineral Development; their acceptance or rejection and for advertising same in accordance with Section 9, Chapter 271, Acts of the 42nd Legislature; etc.; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report

it back to the Senate with the recommendation that it do pass and be printed.

PACE, Chairman.

Senator Moore, by unanimous consent, submitted at this time the following report of the Committee on Game and Fish:

Austin, Texas,
April 3, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

H. B. No. 666, A bill to be entitled "An Act to declare it unlawful to take, hunt, trap, ensnare, kill, or attempt to kill by any means whatsoever any pheasants, blue quail, or bobwhite in Comanche County, for a period of four (4) years from and after the passage of this Act; providing a penalty therefor; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

MOORE, Chairman.

Committee Substitute for Senate Joint Resolution 12 on Passage to Engrossment

(Postponed Business)

The President laid before the Senate, as postponed business, on its passage to engrossment (the resolution having been read second time on Tuesday, March 21, 1939):

Committee Substitute S. J. R. No. 12, A Joint Resolution, Proposing an amendment to Article 3 of the Constitution of the State of Texas by adding thereto a section to be known as Section 51-E, the purpose of which is to provide for the assessment and collection of a Social Security Tax, etc.

With an amendment by Senator Van Zandt, striking out the resolving clause of the resolution, pending.

Question—Shall the amendment be adopted?

By unanimous consent, Senator Van Zandt withdrew the amendment.

Senator Redditt offered the following amendment to the resolution:

Substitute for Senate Joint Resolution No. 12, as amended, by striking out all below the resolving clause and substituting in lieu thereof, the following:

"Section 1. That Article 3 of the Constitution of the State of Texas is hereby amended by adding thereto a section to be known as "Section 51-E", as follows:

Section 51-E. 1. The Legislature shall provide for the collection of the taxes levied by this section of the Constitution and the revenue derived therefrom shall be used by it for the purpose of financing the following governmental functions, viz:

(1) Old Age Assistance as authorized by the provisions of Section 51-B of Article 3 of this Constitution.

(2) For Assistance of needy individuals who are blind, as authorized in Section 51-C of Article 3 of this Constitution.

(3) For Assistance of destitute children, as authorized in Section 51-D of Article 3 of this Constitution.

(4) For the payment of the State's contribution to the Teachers' Retirement Fund as authorized by Section 48-A of Article 3 of this Constitution.

(5) For the payment of pensions to disabled and indigent Confederate Soldiers and Sailors and their widows as authorized in Section 51 of Article 3 of this Constitution.

(6) For supplementing the Available School Fund of the State of Texas.

(7) For supplementing equalization school fund.

Sec. 2. In order to provide the revenues for the purposes set out in this amendment, taxes to be known and designated as Social Security Taxes are hereby levied upon transactions, services, activities and natural resources as follows:

(1) Upon every retail sales transaction of tangible personal property in this State the tax shall be one (1c) cent upon each fifty (50c) cents or fractional part thereof of the sale price in excess of four (4c) cents.

(2) Upon every sale in this State of electric energy, and gas (natural or artificial) by private utilities, municipalities and governmental agencies, except on sales for industrial purposes, the tax shall be one (1c) cent on each fifty (50c) cents, or fractional part thereof of the sale price.

(3) Upon all sales of service to telephone subscribers and to others through equipment of telephone sub-

scribers for the transmission of messages and conversations, both local and long distance, and upon the sale, rental or leasing of all equipment or services pertaining or incidental thereto in this State the tax shall be one (1c) cent for each fifty (50c) cents or fractional part thereof of the sale price.

(4) Upon all charges for admission to places of amusement or athletic contests, the tax shall be one (1c) cent for each fifty (50c) cents or fractional part thereof of the admission price in excess of twenty-five (25c) cents.

(5) Upon consideration charged for advertising, regardless of the means by which such advertising may be accomplished the tax shall be one (1c) cent for each fifty (50c) cents or fractional part thereof.

(6) The service of storing and parking automobiles, the tax shall be one (1c) cent for each fifty (50c) cents or fractional part thereof.

(7) The service performed and the use granted by the keepers of hotels, rooming houses, apartment houses, apartment hotels and tourist camps, or lodges, in furnishing and renting rooms, apartments and living accommodations, the tax shall be one (1c) cent for each fifty (50c) cents or fractional part thereof.

(8) The service of advertising or giving publicity to any property, real or personal, or to any commodity, person or service, regardless of the means by which the same is accomplished, the tax shall be one (1c) cent for each fifty (50c) cents or fractional part thereof.

(9) The service and privilege furnished by each club maintained for the convenience, entertainment or amusement of its members, the tax shall be one (1c) cent for each fifty (50c) cents or fractional part thereof.

(10) All services performed by commission merchants, commission agents, brokers and factors as such, the tax shall be one (1c) cent for each fifty (50c) cents or fractional part thereof.

Sec. 3. The taxes levied under Sub-sections one (1) to ten (10) inclusive, of Section 2 aforesaid, shall be collected from the purchaser by the seller in every case, and the seller shall pay the tax to the Comptroller as herein provided quarterly. The Legislature in its first session following the adoption of this amendment,

shall enact suitable laws to enforce the collection of such taxes. The Legislature shall allow the collector of the taxes above levied in Sub-sections one (1) to ten (10) inclusive, to deduct from the taxes collected not less than three (3) per cent nor more than five (5) per cent to cover the collection and remittance costs.

Sec. 4. Each person who owns, controls, manages, leases or operates, any sulphur mine, or mines, well or shafts, or who produces sulphur by any method, system, or manner within this State shall pay a severance tax of twenty-five (25c) cents per long ton, or fraction thereof, of all sulphur so produced within the State.

Sec. 5. A severance tax equivalent to three-fourths ($\frac{3}{4}$) of one per cent of the market value of the total amount of gas produced and saved within this State is hereby levied.

Sec. 6. There is hereby levied a severance tax on all oil produced within this State of three-fourths ($\frac{3}{4}$ c) cents per barrel of forty-two (42) standard gallons, said tax shall be computed upon the total barrels of oil produced or salvaged from the earth or waters of this State without any deductions; provided, however, that the severance tax herein levied on oil shall be three-fourths ($\frac{3}{4}$) of one (1%) per cent of the market value of said oil whenever the market value thereof is in excess of One (\$1.00) Dollar per barrel of forty-two (42) standard gallons.

Sec. 7. Severance taxes herein imposed shall be paid to the Comptroller of this State; said taxes shall be the liability of the producer and such taxes shall be borne ratably by all interested parties including royalty owners. The Legislature shall enact laws prescribing the method of reporting and collecting all severance taxes and may require the purchaser of oil, gas and sulphur to deduct the tax on all oil, gas and sulphur purchased and pay same to the Comptroller of this State. Until the Legislature shall otherwise provide, the provisions of the existing law providing for an occupation tax on oil, gas and sulphur with reference to paying such occupation tax, the records to be kept and reports to be made in regard thereto, and all other administrative provisions of said law, insofar as they may be given application consistent herewith, shall apply and be followed in the enforcement and col-

lection of the severance taxes herein levied.

Sec. 8. Out of the revenues accruing to the State from the sources herein created, the Legislature may appropriate for the fiscal year beginning September 1, 1939, and for each fiscal year thereafter as much as, but not more than Twenty Million (\$20,000,000) Dollars per annum to finance old age assistance; as much as but not in excess of One and One-half Million Dollars (\$1,500,000) annually to finance assistance for destitute children; not to exceed Five Hundred Thousand Dollars (\$500,000.00) per annum to finance assistance for needy persons who are blind; and so long as necessary, as much as, but not in excess of One and One-half Million Dollars (\$1,500,000) annually to provide for Confederate Soldiers and Sailors, and in addition thereto, not to exceed Five Hundred Thousand Dollars (\$500,000.00) per annum to be used in retiring the deficit in the Confederate Pension Fund. During the biennium beginning September 1, 1939, the Legislature shall appropriate from revenue derived from the sources herein created, sufficient money to meet the constitutional obligation of the State of Texas to the Teachers' Retirement Fund, and such money as may be needed to place said fund in balance on September 1, 1941, and after said biennium the Legislature may appropriate as much as but not in excess of Two and One-half Million Dollars (\$2,500,000) per annum to supply the State's contribution to said Teachers' Retirement Fund. The Legislature is hereby prohibited from resorting to other sources of revenue and from making any other appropriation for the support or assistance to the aged, assistance to the blind, assistance to destitute children, for Confederate pensions, and for teacher retirement. After the appropriations herein authorized have been made and satisfied out of money collected by the taxes herein levied, so much of the remaining revenue collected from the sources herein created shall be credited to the Available School Fund as may be necessary to supplement said fund to the extent required to provide a per capita apportionment of \$22.50 for each scholastic on the census roll approved for such fiscal year, and after so crediting the Available School Fund, any money remaining shall be credited

to School Equalization Fund to be appropriated by the Legislature.

Sec. 9. The Legislature shall not abate, amend or repeal any existing law which imposes taxes to supply revenue now allocated to the Texas Old Age Assistance Fund until such time as said taxes supplying revenue which is allocated to said fund shall have produced to the sum of Twenty Million Dollars (\$20,000,000.00) after September 1, 1939. All such revenue collected up to October 1, 1939, shall be credited to said Texas Old Age Assistance Fund, and the revenue accruing during the month of September, 1939, shall constitute an operating balance for the payment of Old Age Assistance. On and after October 1, 1939, that portion of existing taxes which now provides revenue for the payment of Old Age Assistance shall be used exclusively for retiring the deficit now existing in the General Revenue Fund, and the Legislature shall provide for the collection of such taxes and the impounding of the revenue therefrom for the payment of the said deficit, until such time as Twenty Million Dollars (\$20,000,000.00) accrues after September 1, 1939. When said sum of Twenty Million Dollars (\$20,000,000.00) shall have accrued, the Legislature may repeal said tax laws or use the revenue therefrom as it sees proper.

Sec. 10. So much of Article 3, Section 51, of the Constitution as levies a State ad valorem tax for the purpose of creating a special fund for the payment of pensions to Confederate soldiers and sailors is hereby repealed.

Sec. 11. The provisions hereof providing for Old Age Assistance shall not be construed as a vested right in the recipients of such old age assistance. The taxes levied in this amendment shall become effective September 1, 1939, and shall be in addition to all other taxes now or hereafter levied by law.

Sec. 12. The term "retail sale" shall include all transactions whereby the ultimate consumer or user, for a valuable consideration, (a) acquires title to tangible personal property, (b) acquires possession and the right to consume or use tangible personal property, (c) acquires the use of electric energy or the use of natural gas and (d) acquires food, beer, liquor, confections and beverages, and the service thereof. The term shall not include the following transactions,

viz: (a) isolated or occasional sales of property and the service thereof, (b) the first sale by the producer of garden, orchard, dairy, or agricultural products or of livestock, poultry and the products thereof, (c) all sales involving the acquisition of tangible personal property for resale as a component part or ingredient of other tangible personal property, or for use in processing or treating other tangible personal property for sale to the ultimate consumer, and (d) transactions involving the acquisition of gasoline, motor fuel and cigarettes.

Sec. 13. Said proposed Constitutional Amendment shall be submitted to a vote of the qualified electors of this State at a special election to be held throughout the State on the Third Saturday in July, 1939, at which election all voters favoring such proposed Amendment shall write or have printed on their ballots the words:

"For the Amendment to the State Constitution providing a system of Old Age Assistance, levying Social Security taxes for the payment of such Old Age Assistance and providing a source of revenue for the payment of Destitute Children's Assistance, Teachers' Retirement Benefits, Confederate Pensions, Assistance to the Blind, and Aid for Schools."

And all those opposed shall write or have printed on their ballots the words:

"Against the Amendment to the State Constitution providing a system of Old Age Assistance, levying Social Security taxes for the payment of such Old Age Assistance and providing a source of revenue for the payment of Destitute Children's Assistance and Teachers' Retirement Benefits, Confederate Pensions, Assistance to the Blind, and Aid for Schools."

Sec. 14. The taxes levied by the adoption of this Resolution shall automatically expire on January 1, 1943, unless the qualified electors shall re-adopt the Constitutional Amendment at the General Election in the year 1942. At said General Election the question of repealing the amendment to the Constitution shall be submitted in the following manner:

"For repeal of Section 51-B of Article 3 of the Constitution as adopted in the year 1939."

"Against repeal of Section 51-B of Article 3 of the Constitution as adopted in the year 1939."

"In the event the majority of the

votes cast at said election favor repeal, the amendment to the Constitution shall be eliminated therefrom. In the event the majority of the votes cast are opposed to repeal, then the amendment as adopted in 1939 shall for all purposes be and remain in effect."

Sec. 15. The Governor of the State of Texas is hereby directed to issue the necessary proclamation for said election and have same published as required by the Constitution and laws of this State.

The sum of Twenty Thousand (\$20,000.00) Dollars or so much thereof as may be necessary is hereby appropriated out of any funds in the Treasury of this State not otherwise appropriated to pay the expenses of such publication and election."

Question—Shall the amendment be adopted?

At 11:00 o'clock a. m., the President announced that the hour for the consideration of S. B. No. 330, heretofore set as a special order, had arrived, and he stated if there was no objection he would withhold laying the bill before the Senate until Committee Substitute for S. J. R. No. 12 has been disposed of.

There was no objection offered.

Question recurred — Shall the amendment by Senator Redditt be adopted?

Senator Stone of Washington offered the following substitute for the amendment:

Substitute for Amendment to Committee Substitute S. J. R. No. 12, as amended, by striking out all below the resolving clause and substituting in lieu thereof the following:

"Section 1. That Article 3 of the Constitution of the State of Texas is hereby amended by adding thereto a section to be known as 'Section 51-E', as follows:

"Section 51-E. 1. The Legislature shall provide for the collection of the taxes levied by this section of the Constitution and the revenue derived therefrom shall be used by it for the purpose of financing the following governmental functions, viz:

(1) Old Age Assistance as authorized by the provisions of Section 51-B of Article 3 of this Constitution.

(2) For assistance of needy individuals who are blind, as authorized

in Section 51-C of Article 3 of this Constitution.

(3) For assistance of destitute children, as authorized in Section 51-D of Article 3 of this Constitution.

(4) For the payment of the State's contribution to the Teachers' Retirement Fund as authorized in Section 48-A of Article 3 of this Constitution.

(5) For the payment of pensions to disabled and indigent Confederate Soldiers and Sailors and their widows as authorized in Section 51 of Article 3 of this Constitution.

(6) For supplementing the Available School Fund of the State of Texas."

Sec. 2. A tax at the rate of two per cent (2%) of the selling price paid or promised to be paid as consideration for each retail sale made in this State on and after September 1st, 1939, is hereby levied. The term "retail sale" shall include all transactions whereby the ultimate consumer or user, for a valuable consideration, (a) acquires title to tangible personal property, (b) acquires possession and the right to consume or use tangible personal property, (c) acquires the use of electric energy or the use of natural gas, and (d) acquires food, beer, liquor, confections and beverages, and the services thereof. The term shall not include the following transactions, viz: (a) isolated or occasional sales of property and the service thereof, (b) the first sale by the producer of garden, orchard, dairy, or agricultural products, of livestock, poultry and the products thereof, and (c) transactions involving the acquisition of gasoline, motor fuel and cigarettes.

Sec. 3. There is hereby levied a tax at the rate of two per cent (2%) on the consideration charged and collected for each and all of the following services, privileges and uses that are performed, granted or sold within this State on and after September 1st, 1939.

(a) The service of storing and parking automobiles.

(b) The service performed and the use granted by the keepers of hotels, rooming houses, apartment houses, apartment hotels and tourist camps, or lodges, in furnishing and renting rooms, apartments and living accommodations.

(c) The service of advertising or giving publicity to any property, real or personal, or to any commodity, person, or service, regardless of the

means by which same is accomplished.

(d) The service and privilege furnished by each club maintained for the convenience, entertainment or amusement of its members.

(e) The privilege of attending a theatre, places of amusement or entertainment, or athletic contests.

(f) All services performed by commission merchants, commission agents, brokers and factors as such.

(g) The service of transmitting messages and conversation by telegraph, telephone, or radio, including the rental of lease equipment and apparatus by persons engaged in the business of selling such service.

(h) The service of transporting commodities.

Sec. 5. Each person who owns, controls, manages, leases or operates any sulphur mine, or mines, well or shafts, or who produces sulphur by any method, system, or manner within this State shall pay a severance tax of twenty-five (25c) cents per long ton, or fraction thereof, of all sulphur so produced within the State.

Sec. 5. A severance tax equivalent to three-fourths ($\frac{3}{4}$) of one per cent of the market value of the total amount of gas produced and saved within this State is hereby levied.

Sec. 6. There is hereby levied a severance tax on all oil produced within this State of three-fourths ($\frac{3}{4}$) cent per barrel of forty-two (42) standard gallons, said tax shall be computed upon the total barrels of oil produced or salvaged from the earth or waters of this State without any deduction; provided, however, that the severance tax herein levied on oil shall be three-fourths ($\frac{3}{4}$) of one (1%) per cent of the market value of said oil whenever the market value thereof is in excess of One (\$1.00) Dollar per barrel of forty-two (42) standard gallons.

Sec. 7. Out of the revenues accruing to the State from the sources herein created, the Legislature may appropriate for the fiscal year thereafter as much as, but not more than Twenty Million (\$20,000,000) Dollars per annum to finance old age assistance; as much as but not in excess of One and One-half Million Dollars (\$1,500,000) annually to finance assistance for destitute children; not to exceed Five Hundred Thousand Dollars (\$500,000.00) per annum to finance assistance for needy persons

who are blind; and so long as necessary, as much as, but not in excess of One and One-half Million Dollars (\$1,500,000) annually to provide for Confederate soldiers and sailors, and in addition thereto, not to exceed Five Hundred Thousand Dollars (\$500,000.00) per annum to be used in retiring the deficit in the Confederate Pension Fund. During the biennium beginning September 1, 1939, the Legislature shall appropriate from revenue derived from the sources herein created, sufficient money to meet the constitutional obligation of the State of Texas to the Teachers' Retirement Fund, and such money as may be needed to place said fund in balance on September 1, 1941, and after said biennium the Legislature may appropriate as much as, but not in excess of Two and One-half Million Dollars (\$2,500,000) per annum to supply the State's contribution to said Teachers' Retirement Fund. The Legislature is hereby prohibited from resorting to other sources of revenue and from making any other appropriation for the support or assistance to the aged, assistance to the blind, assistance to destitute children, for Confederate pensions, and for teacher retirement. After the appropriations herein authorized have been made and satisfied out of money collected by the taxes herein levied, so much of the remaining revenue collected from the sources herein created shall be credited to the Available School Fund as may be necessary to supplement said fund to the extent required to provide a per capita apportionment of \$22.50 for each scholastic on the census roll approved for such fiscal year, and after so crediting the Available School Fund, any money remaining shall be credited to General Revenue.

Sec. 8. So much of Article 3, Section 51, of the Constitution as levies a State ad valorem tax for the purpose of creating a special fund for the payment of pensions to Confederate soldiers and sailors is hereby repealed.

Sec. 9. The Legislature shall not abate, amend or repeal any existing law which imposes taxes to supply revenue now allocated to the Texas Old Age Assistance Fund until such time as said taxes supplying revenue which is allocated to said fund shall have produced to the sum of Twenty

Million Dollars (\$20,000,000) after September 1st, 1939. All such revenue collected up to October 1st, 1939, shall be credited to said Texas Old Age Assistance Fund, and the revenue accruing during the month of September 1, 1939, shall constitute an operating balance for the payment of old age assistance. On and after October 1st, 1939, that portion of existing taxes which now provides revenue for the payment of old age assistance shall be used exclusively for retiring the deficit now existing in the General Revenue Fund, and the Legislature shall provide for the collection of such taxes and the impounding of the revenue therefrom for the payment of the said deficit, until such time as Twenty Million Dollars (\$20,000,000) accrues after September 1st, 1939. When said sum of Twenty Million Dollars (\$20,000,000) shall have accrued, the Legislature may repeal said tax laws or use the revenue therefrom as it sees proper.

Sec. 10. The taxes levied by the adoption of this Resolution shall automatically expire on January 1, 1943, unless the qualified electors shall re-adopt the Constitutional Amendment at the General Election in the year 1942. At said General Election the question of repealing the amendment to the Constitution shall be submitted in the following manner:

'FOR repeal of Section 51-B of Article 3 of the Constitution as adopted in the year 1939.'

'AGAINST repeal of Section 51-B of Article 3 of the Constitution as adopted in the year 1939.'

"In the event the majority of the votes cast at said election favor repeal, the amendment to the Constitution shall be eliminated therefrom. In the event the majority of the votes cast are opposed to repeal, then the amendment as adopted in 1939 shall for all purposes be and remain in effect."

Sec. 11. The foregoing Constitutional Amendment shall be submitted to the electors of the State of Texas at an election to be held on the third Saturday in July, the same being the 15th day of July, A. D. 1939, at which election there shall be printed upon the ballot the following:

"FOR the amendment of Article 3 of the Constitution of the State of Texas, providing for a social security

tax on the selling price of retail sales made in this State and on certain privileges and uses performed, granted or sold within this State, the proceeds from which shall be used for the purpose of financing old age assistance; assistance for the needy blind; assistance of destitute children; for the payment of the State's contribution to the Teachers' Retirement Fund; the payment of pensions to indigent Confederate soldiers, sailors and their widows, and for supplementing the Public Free School Fund of the State of Texas."

"AGAINST the amendment of Article 3 of the Constitution of the State of Texas, providing for a social security tax on the selling price of retail sales made in this State and on certain privileges and uses performed, granted or sold within this State, the proceeds from which shall be used for the purpose of financing old age assistance; assistance for the needy blind; assistance of destitute children; for the payment of the State's contribution to the Teachers' Retirement Fund; the payment of pensions to indigent Confederate soldiers, sailors and their widows, and for supplementing the Public Free School Fund of the State of Texas."

Sec. 12. The Governor of the State of Texas is hereby directed to issue the necessary proclamation for said election and the printing thereof as required by the Constitution and laws of the State of Texas.

Section 14. The sum of Ten Thousand Dollars (\$10,000.00), or so much thereof as may be necessary, is hereby appropriated out of the funds in the Treasury of this State not otherwise appropriated, to defray the expense of said publication and election.

Yeas and nays were demanded, and the substitute was lost by the following vote:

Yeas—5

Graves	Stone
Moore	of Washington
Roberts	Weinert

Nays—24

Aikin	Cotten
Beck	Hardin
Brownlee	Hill
Burns	Isbell
Collie	Kelley

Lanning	Shivers
Lemens	Small
Martin	Stone
Metcalf	of Galveston
Moffett	Sulak
Nelson	Van Zandt
Pace	Winfield
Redditt	

Absent—Excused

Head

Spears

Senator Aikin offered the following amendment to the amendment:

Amend pending amendment by adding the following at the end of Section 2: "Provided that food for human consumption shall be exempted from this tax."

Yeas and nays were demanded, and the amendment to the amendment was lost by the following vote:

Yeas—13

Aikin	Metcalf
Brownlee	Moffett
Burns	Moore
Collie	Shivers
Hill	Stone
Lanning	of Galveston
Lemens	Sulak

Nays—14

Cotten	Roberts
Graves	Small
Hardin	Stone
Kelley	of Washington
Martin	Van Zandt
Nelson	Weinert
Pace	Winfield
Redditt	

Absent

Beck

Isbell

Absent—Excused

Head

Spears

Senator Moore moved the previous question on the amendment and the resolution, and the motion was duly seconded.

Yeas and nays were demanded on the motion for the previous question, and the main question was ordered by the following vote:

Yeas—16

Cotten	Moffett
Graves	Moore
Hardin	Nelson
Kelley	Pace
Lemens	Redditt

Roberts	Van Zandt
Small	Weinert
Stone	Winfield
of Washington	

Nays—12

Aikin	Martin
Beck	Metcalf
Brownlee	Shivers
Burns	Stone
Collie	of Galveston
Hill	Sulak
Lanning	

Absent

Isbell

Absent—Excused

Head

Spears

Senator Metcalfe raised a point of order against further consideration of the amendment, on the ground that its adoption would change matter in the resolution which has been inserted therein by an amendment adopted by the Senate.

The President overruled the point of order.

Question recurring on the amendment of Senator Redditt, yeas and nays were demanded.

The amendment was adopted by the following vote:

Yeas—21

Aikin	Nelson
Beck	Pace
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Stone
Graves	of Washington
Hardin	Sulak
Kelley	Van Zandt
Metcalfe	Weinert
Moore	Winfield

Nays—6

Hill	Martin
Isbell	Small
Lanning	Stone
Lemens	of Galveston

Absent

Moffett

Absent—Excused

Head

Spears

Senator Aikin moved that the Senate recess to 2:00 o'clock p. m. today.

The motion was lost.

Question recurred on the passage of the resolution as amended to engrossment.

The Senate refused to pass the resolution to engrossment by the following vote:

Yeas—14

Beck	Redditt
Cotten	Roberts
Hardin	Stone
Kelley	of Washington
Martin	Van Zandt
Moffett	Weinert
Nelson	Winfield
Pace	

Nays—15

Aikin	Lemens
Brownlee	Metcalf
Burns	Moore
Collie	Shivers
Graves	Small
Hill	Stone
Isbell	of Galveston
Lanning	Sulak

Absent—Excused

Head

Spears

Report of Standing Committee

Senator Moore, by unanimous consent, submitted at this time the following report of the Committee on Game and Fish.

Austin, Texas,
April 3, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

H. B. No. 517, A bill to be entitled "An Act amending Senate Bill No. 514, Chapter 101, Page 140 of the Special Laws of the Regular Session of the Forty-third Legislature, 1933, eliminating certain counties from the provisions of said Act; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that the Committee Substitute for said bill be passed and be not printed.

MOORE, Chairman.

Resolutions Signed

The President signed, in the presence of the Senate, after their captions had been read, the following enrolled resolutions:

H. C. R. No. 74, Urging the passage of a bill known as the "Truth in Fabric" bill, now pending in the Congress.

H. C. R. No. 75, Urging the passage of the McCarran Bill, now pending in the House of Representatives of the Congress of the United States.

Recess

On motion of Senator Hill, the Senate, at 12:10 o'clock p. m., took recess to 2:00 o'clock p. m. today.

Afternoon Session

The Senate met at 2:00 o'clock p. m., and was called to order by the President.

Report of Conference Committee on House Bill No. 474

Senator Pace submitted at this time the following report of the Free Conference Committee on H. B. No. 474:

Austin, Texas,
April 3, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Hon. R. Emmett Morse, Speaker of the House.

Gentlemen: We, your Committee appointed to adjust the differences in House Bill No. 474, have same under consideration and beg to report with recommendation that same be passed as follows:

H. B. No. 474. By Davis of Upshur.

A BILL**TO BE ENTITLED**

An Act to fix the salary of the County Superintendent of Public Instruction in counties having a population of not less than 22,100 nor more than 22,500; all counties having a population of not less than 41,050 and not more than 42,100; all counties having a population of not less than 22,600 and not more than 22,800; all counties having a population of not less than 14,550 and not more than 14,800; and in all coun-

ties having a population of not less than 11,021 and not more than 11,050, according to the last preceding Federal Census; repealing all laws or parts of laws in conflict herewith; and declaring an emergency.

Be it Enacted by the Legislature of the State of Texas:

Section 1. From and after the passage of this Act, the salary of the County Superintendent of Public Instruction of each county in Texas having a population of not less than 22,100 and not more than 22,500 according to the last preceding Federal Census, shall be Thirty-six Hundred (\$3,600.00) Dollars per annum, to be paid in equal monthly payments out of the county's available per capita apportionment coming to such counties, upon the order of the County School Trustees.

Sec. 2. That the salary of the County Superintendent of Public Instruction of each county in Texas having a population of not less than 41,050, and not more than 42,100 according to the last preceding Federal Census shall from and after the passage of this Act be not less than the sum of \$2,800.00 per annum and not more than \$3,600.000 per annum to be fixed by the County Board of Education of each county; and in addition thereto, the County Superintendent of such counties shall receive office expenses for stamps, telephone, and stationery not exceeding \$300.00 per annum, as well as an amount not in excess of \$300.00 per annum to defray traveling expenses incurred by such county superintendents which said sum shall be paid by said County Board of Trustees on the certificate of such superintendent that the expenses had been incurred in the discharge of his duties as such superintendent.

(a) The salary and expenses provided for in Section 2 of this Act shall be paid monthly upon the order of the County School Trustees of such counties out of the county's available and State per capita apportionment coming to such counties; providing that the month of September shall not be paid until the County Superintendent of Public Instruction shall have presented a receipt or a certificate from the State Superintendent of Public Instruction showing that he has made all of the reports required by him.

Sec. 3. That the salaries of the

County Superintendents of Public Instruction of each county in Texas, having a population of not less than 22,600 and not more than 22,800, according to the last preceding Federal Census, shall from and after the passage of this Act be not less than \$2,200.00 per annum and not more than \$2,800.00 per annum, and in counties having a population of not less than 14,550 and not more than 14,800, according to the last preceding Federal Census, shall from and after the passage of this Act be not less than the sum of \$2,200.00 and not more than \$2,800.00 per annum, to be fixed by the County Board of Education in each county.

Sec. 4. That the salary of the Superintendent of Public Instruction of each county in Texas having a population of not less than eleven thousand and twenty-one (11,021) nor more than eleven thousand and fifty (11,050), according to the latest Federal Census shall from and after the passage of this Act be not less than Twenty-one Hundred (\$2,100.00) Dollars per annum nor more than Twenty-four Hundred (\$2,400.00) Dollars per annum; said salary to be set by the County Board of School Trustees of each county affected.

Sec. 4-a. The salary shall be paid monthly upon the order of the County Board of School Trustees; provided that the month of September shall not be paid until the Superintendent of Public Instruction shall have presented a receipt or a certificate from the State Superintendent of Public Instruction showing that he has made all reports required by him.

Sec. 5. All laws or parts of laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of such conflict.

Sec. 6. The fact that the duties of the office of County Superintendent of Public Instruction have greatly increased in certain counties and the fact that such Superintendents are grossly underpaid, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Respectfully submitted, this the 3rd day of April, A. D. 1939.

On the part of the Senate,

PACE,
NELSON,
BURNS,
VAN ZANDT,
COTTEN,

On the part of the House,

COLSON,
DAVIS
of Upshur,
WELDON,
BROADFOOT,
BOND.

Question—Shall the report be adopted.

The report was adopted by the following vote:

Yeas—26

Aikin	Moffett
Beck	Moore
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Stone
Hardin	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalfe	Winfield

Absent

Hill	Small
Nelson	

Absent—Excused

Head	Spears
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Relative to Consideration of Local Bills

Senator Small submitted the following motion in writing:

I move that the Senate convene for night session Monday night, April 3, 1939, at eight o'clock, for the purpose of considering local and uncontested bills placed upon the Local and Uncontested Bill Calendar by the Committees appointed for that purpose, provided, however, that no bill will be considered when as many as three Senators object to its passage.

Senator Moffett moved to amend the motion by striking out "Monday" and inserting "Tuesday."

The amendment was lost by the following vote:

Yeas—7

Cotten	Moffett
Graves	Van Zandt
Hardin	Weinert
Kelley	

Nays—18

Aikin	Pace
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Isbell	Small
Lanning	Stone
Martin	of Galveston
Metcalfe	Stone
Moore	of Washington
Nelson	Sulak

Absent

Beck	Lemens
Hill	Winfield

Absent—Excused

Head	Spears
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Question recurring on the motion, it prevailed.

Senator Martin moved to reconsider the vote by which the motion prevailed.

The motion to reconsider prevailed.

Question—Shall the motion of Senator Small prevail?

On motion of Senator Martin, the motion was amended by changing "Monday" to "Wednesday."

The motion of Senator Small as amended prevailed.

Appointments Announced

Pursuant to S. R. No. 47, the President announced the appointment of the following committee to prepare a calendar of non-contested bills: Senators Moore, Small and Lemens.

Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives.
Austin, Texas,
April 3, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

S. B. No. 255, A bill to be entitled "An Act to amend an Act of the Thirty-fourth Legislature, entitled an Act to create a more efficient road system for Lavaca County, Texas, being Chapter 75, Local and Special Laws, Regular Session, 1915, as amended by an Act of the Forty-first Legislature, being Chapter 24, Local and Special Laws, Fourth Called Session, 1930, by adding thereto Section 19, authorizing the Commissioners' Court to issue funding or refunding bonds in lieu of outstanding scrip warrants against the road and bridge fund as of December 31st, 1938, providing the method of issuing such bonds, making it the duty of the Commissioners' Court to levy a tax sufficient to pay the principal and interest on such bonds as they mature and accrue, and providing for the validation of such scrip warrants; and by adding thereto Section 20, authorizing the Commissioners' Court to levy a tax of not exceeding Fifteen Cents on the one hundred dollars valuation for the further maintenance of the public roads in any political subdivision, Commissioners' precinct or defined district heretofore or hereinafter created of the county, upon presentation of a petition, and the holding of an election for such purpose, enacting provisions, powers, and duties relating to the subject; making the General Laws pertaining to roads and bridges applicable in Lavaca County; providing that the provisions of this Act shall be effective in case of conflict with any General or Special Law; providing that if any portion of this Act shall be held invalid, such holding shall not affect the other portion hereof; repealing all laws in conflict; and declaring an emergency."

S. B. No. 280, A bill to be entitled "An Act validating certain outstanding road and bridge time warrants of Fayette County, Texas, heretofore issued to provide funds to aid in the construction of Highway No. 20 in Road District No. 3 of said County, and Fayette County Bridge Warrants heretofore issued for the purpose of aiding in constructing a bridge across the Colorado River on Highway No. 72, and authorizing the Commissioners' Court of Fayette County to fund or refund into coupon road and bridge funding or refunding bonds of said

County, said time warrants to the amount of \$31,200.00; providing for the approval of said bonds by the Attorney General, and their registration by the State Comptroller; and declaring an emergency."

Respectfully submitted,

E. R. LINDLEY,
Chief Clerk. House of Representatives.

Senate Bill 330 on Second Reading
(Special Order)

The President laid before the Senate as a special order, on its second reading and passage to engrossment:

S. B. No. 330, A bill to be entitled "An Act to amend Section 1, Acts of the Second Called Session, Forty-first Legislature, Chapter 41, conferring upon the State Highway Department authority to issue permits for the operation of super-heavy or oversize equipment over a State Highway, for the transportation of such commodities as cannot be reasonably dismantled, or for the transportation of perishable fruits, vegetables, livestock and livestock feed stuffs, where the gross weight or size exceeds the limits allowed by law to be transported over a State Highway; declaring an emergency and providing this Act shall take effect from and after its passage."

The bill was read second time.

Senator Kelley offered the following amendments to the bill:

(1)

Amend the bill by striking out all after the enacting clause and inserting the following:

Section 1. That Section 1 of the Acts of the Second Called Session of the Forty-first Legislature, Chapter 41, be, and the same is hereby amended, to hereafter read as follows:

"Section 1. When any person, firm or corporation shall desire

(1) to operate over a State Highway super-heavy or oversize equipment for the transportation of such commodities as cannot be reasonably dismantled where the gross weight or size exceeds the limits allowed by law to be transported over a State Highway, or

(2) to operate over a State Highway a motor vehicle, truck-tractor, trailer, or semi-trailer for the trans-

portation of perishable fruits, vegetables, livestock or livestock feed stuffs in a weight or load thereof in excess of the weight limits or load limits now or hereafter allowed by law therefor to be transported over a State Highway, the State Highway Department may, upon application, issue a permit for the operation of said equipment with said commodities, or for the operation of such motor vehicle, truck-tractor, trailer, or semi-trailer with said perishable fruits, vegetables, livestock or livestock feed stuffs, when said State Highway Department is of the opinion that the same may be operated without material damage to the highway. Provided, however, that nothing in this Act shall prevent the full control of such movements or operations on the streets of cities and towns by the ordinances of such municipalities."

Sec. 2. That Section 2 of the Acts of the Regular Session of the Forty-second Legislature, Chapter 282, be, and the same is hereby amended, to hereafter read as follows:

"Section 2. It shall be unlawful and constitute a misdemeanor for any person to drive, operate or move, or for the owner to cause or permit to be driven, operated, or moved on any highway, any vehicle or vehicles of a size or weight exceeding the limitations stated in this Act or any vehicle or vehicles which are not constructed or equipped as required in this Act, or to transport thereon any load or loads exceeding the dimensions or weight prescribed in this Act; provided the department, acting directly or through its agent or agents designated in each county shall have and is hereby granted authority to grant permits limited to periods of ninety (90) days or less for the transportation over State Highways of such overweight or oversize or overlength commodities as cannot be reasonably dismantled or for the operation over State Highways of super-heavy and oversize equipment for the transportation of such oversize or overweight or overlength commodities as cannot be reasonably dismantled or for the operation over State Highways of motor vehicles, truck-tractors, trailers, or semi-trailers in the transportation of perishable fruits, vegetables, livestock or livestock feed stuffs, in a weight or load thereof in excess of the weight limits or load limits now or hereafter allowed by law therefor to be transported over a State High-

way; provided, that any haul or hauls made under such permits shall be made by the shortest practicable route; provided further that the department shall designate the county judges of the respective counties in addition to its other designated agents, who acting under the direction of the department shall have and are hereby granted authority to issue such permits over State highways; and provided further, that the Commissioners' Courts through the county judges of the several counties of the State shall have and are hereby granted authority to grant such permits over the highways of their respective counties other than State Highways, and the said county judges shall have and are hereby granted said authority independently of the said Commissioners' Courts until such time as the said courts shall have acted with respect thereto. Said Commissioners' Courts, in their discretion, may require a bond to be executed by an applicant in such amount as will guarantee the payment of any damages which any road or bridge traversed or crossed may sustain in consequence of the transportation aforesaid, provided, however, that when the permit is for the transportation of perishable fruits, vegetables, livestock or livestock feed stuffs, no bond shall be required."

Sec. 3. That Section 3 of the Acts of the Second Called Session of the Forty-first Legislature, Chapter 41, be, and the same is hereby amended, to hereafter read as follows:

"Section 3. Before a permit is issued, the applicant for the same shall file with the State Highway Department a bond in an amount to be set and approved by the Department, payable to the State Highway Department, of Texas, and conditioned that the applicant will pay to the State Highway Department any damage that might be sustained to the highway by virtue of the operation of the equipment, for which a permit is issued to operate, and venue of any suit for recovery upon said bond may be any court of competent jurisdiction of Travis County. There shall also accompany the bond a fee of \$5.00 payable to the State Highway Department which fee shall be, by the State Highway Department, deposited in the Treasury of the State of Texas, to the credit of the Highway Maintenance Fund; provided, however, that

where the permit is for the transportation of perishable fruits, vegetables, livestock or livestock feed stuffs, no bond shall be required, and the amount of the permit fee shall be \$1.00."

Sec. 4. It is hereby provided that all laws and parts of laws in conflict with the provisions of this Act, and each or any section thereof, are hereby expressly repealed; provided further, that if any section, subsection, portion, sentence, clause, phrase or word of this Act is for any reason held to be unconstitutional or invalid such decision shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have passed this Act and each section, subsection, portion, sentence, clause, phrase and word, irrespective of the fact that such section, subsection, portion, sentence, clause, phrase or word thereof, is held to be unconstitutional or invalid.

Sec. 5. The fact that conditions often require the transportation of heavy and large commodities over the highways in order to safeguard to producers of perishable fruits, vegetables, livestock or livestock feed stuffs, their markets for such commodities, as well as requires the transportation of such commodities as cannot be reasonably dismantled, and because the situation existing from the present laws is creating a very disastrous and irreparable loss to the growers and producers of perishable fruits, vegetables, livestock and livestock feed stuffs, and the fact that the consumers of this State and Nation are deprived of buying large quantities of such commodities grown and raised by Texas farmers, growers and stockmen, and the fact that such commodities present a special and peculiar situation not applicable to other commodities because of the perishable nature of the same, create an emergency and an imperative public necessity requiring the suspension of the Constitutional Rule requiring bills to be read on three several days in each House and also the suspension of the Constitutional Rule which provides that laws shall not become effective until the expiration of 90 days after the adjournment of the session, and such rules are hereby suspended and this Act shall take effect and be in force from and after its passage, and it is so enacted.

(2)

Amend the bill by striking out all before the enacting clause and inserting in lieu thereof the following:

A BILL

TO BE ENTITLED

An Act to amend Section 1, Acts of the Second Called Session, Forty-first Legislature, Chapter 41, conferring upon the State Highway Department authority to issue permits for the operation of vehicles on the public highways in the transportation of perishable fruits, vegetables, livestock or livestock feed stuffs in a weight or load thereof in excess of the weight limits or load limits now or hereafter allowed by law therefor to be transported over a State Highway; also amending Section 2 of the Acts of the Regular Session of the Forty-second Legislature, Chapter 282, conferring upon the State Highway Department authority to grant permits limited to periods of 90 days or less for the operation of vehicles on the public highways in the transportation of perishable fruits, vegetables, livestock or livestock feed stuffs in a weight or load thereof in excess of the weight limits or load limits now or hereafter allowed by law thereof to be transported over State and Public Highways, and providing that no bond shall be required when the permit is for the transportation of perishable fruits, vegetables, livestock or livestock feed stuffs; also amending Section 3 of the Acts of the Second Called Session of the Forty-first Legislature, Chapter 41, providing that where a permit is issued by the State Highway Department for the operation of vehicles on the public highways in the transportation of perishable fruits, vegetables, livestock or livestock feed stuffs in a weight or load thereof in excess of the weight limits or load limits now or hereafter allowed by law therefor to be transported over a State Highway, no bond shall be required and the amount of the permit fee shall be \$1.00; providing that all laws and parts of laws in conflict therewith are expressly repealed; providing further, that if any section, subsection, portion, sentence, clause, phrase or word of this Act

be declared unconstitutional or invalid such decision shall not affect the remainder of this Act; declaring an emergency and providing this Act shall take effect from and after its passage.

Question—Shall the amendments be adopted?

Senator Moore offered the following amendment to the amendment (1):

Amend the Substitute for S. B. No. 330 by striking out the words: "State Highway Department" where such appears in Section 1 of the bill and inserting in lieu thereof the words: "Railroad Commission of Texas".

MOORE,
SHIVERS.

Yeas and nays were demanded, and the amendment to the amendment was adopted by the following vote:

Yeas—15

Brownlee	Nelson
Burns	Pace
Cotten	Roberts
Hardin	Shivers
Hill	Stone
Isbell	of Galveston
Lemens	Sulak
Moore	Van Zandt

Nays—13

Aikin	Moffett
Beck	Redditt
Graves	Small
Kelley	Stone
Lanning	of Washington
Martin	Weinert
Metcalf	Winfield

Present—Not Voting

Collie

Present—Not Voting

Head

Spears

Senator Van Zandt offered the following amendment to the amendment (1):

Amend Substitute for S. B. No. 330, by adding at the end of Section 1 the following: "provided, however, that a permit may not be granted unless the motor vehicle used or to be used under the provisions of this Act has been duly registered with the State Highway Department as is required by law."

The amendment to the amendment was adopted.

Senator Lemens offered the following amendment to the amendment (1):

Amend S. B. No. 330, page 1, line 24, by adding between the words "fruits" and "vegetables," the words, "bees, honey,"

Senator Collie moved to table the amendment to the amendment, and the motion to table was lost.

Question recurring on the amendment to the amendment, yeas and nays were demanded.

The amendment to the amendment was adopted by the following vote:

Yeas—16

Aikin	Redditt
Graves	Roberts
Hardin	Shivers
Hill	Small
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Winfield
Metcalfe	

Nays—13

Beck	Moore
Brownlee	Nelson
Burns	Pace
Collie	Stone
Cotten	of Galveston
Isbell	Van Zandt
Moffett	Weinert

Absent—Excused

Head	Spears
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Senator Roberts offered the following amendment to the amendment (1):

Amend amendment to S. B. No. 330 by striking out Section 1 and inserting in lieu thereof the following:

"Section 1. When any person, firm or corporation shall desire to operate over any of the highways of this State super-heavy or oversize equipment for the transportation of such commodities as cannot be reasonably dismantled, the Highway Department shall have the authority to issue special permits for the use of such equipment and the transportation of such commodities, if the Commission finds that the use of such equipment and the transportation of such commodities will not unreasonably damage

the highways to be traversed. The Highway Department shall also have authority to issue permits authorizing the transportation of perishable fruits or vegetables, livestock, livestock feedstuffs and such other commodities which have been manufactured, or processed ready for sale to the ultimate user or ultimate consumer, in loads not to exceed 12,000 pounds over highways which are of such type of construction and in such state of repair as to sustain the said loads without unreasonable damage to such highways. The Highway Department, having determined that the highways in question are capable of sustaining the excess load, shall issue such permits. The permits authorizing the use of super-heavy or oversize equipment for the transportation of commodities that cannot be reasonably dismantled shall be issued for each trip, but permits for the transportation of the other commodities herein referred to shall be issued for a period of time of not less than ninety (90) days nor more than one year. "Provided, however, that nothing in this Act shall prevent the full control of such movement or operations on the streets of cities and towns by the ordinances of such municipalities."

Senator Martin offered the following amendment to the amendment by Senator Roberts:

Amend pending amendment by Roberts by striking out "12,000" and inserting in lieu thereof the figure "14,000."

Senator Moffett raised a point of order against further consideration of the amendments by Senator Roberts and Senator Martin, on the ground that they are not germane to the original purposes of the bill.

The President sustained the point of order.

Senator Sulak offered the following amendment to the amendment (1):

Amend S. B. No. 330 by adding Section 3A, amending Sub-section A of Section 3 of Chapter 282, Acts of the Regular Session, Forty-second Legislature, to hereafter read as follows:

"Sec. 3 (a) That after January 1, 1941, no vehicle shall exceed a total outside width, including any load thereon, of eighty-four (84) inches,

except that the width of a farm tractor shall not exceed nine (9) feet, and except further, that the limitations as to size of vehicle stated in this section shall not apply to implements of husbandry, including machinery used solely for the purpose of drilling water wells, and highway building and maintenance machinery temporarily propelled or moved upon the public highways."

Senator Metcalfe raised a point of order against consideration of the amendment to the amendment, on the ground that it is not germane to the original purposes of the bill.

The President sustained the point of order.

Senator Collie offered the following amendment to the amendment (1):

Amend the pending substitute for S. B. No. 330 at Subsection 2 of Section 1, between the words "feed stuffs" and "in" by adding the following: "grown in Texas" and by adding the words "grown in Texas" immediately after the words "perishable fruits, vegetables, livestock or livestock feed stuffs" wherever they appear in the pending substitute.

The amendment to the amendment was adopted.

Senator Nelson offered the following amendment to the amendment (1):

Amend substitute for S. B. No. 330 by adding a new section to be known as Section "4a" and to read as follows:

"It is hereby provided that no permit shall ever be granted as provided herein when the fuel used for the propelling power of such motor vehicle is other than gasoline.

Senator Metcalfe raised a point of order against consideration of the amendment to the amendment, on the ground that it is not germane to the original purpose of the bill.

The President overruled the point of order.

The amendment to the amendment was adopted by the following vote:

Yeas—22

Aikin
Beck

Brownlee
Collie

Cotten
Hardin
Hill
Kelley
Lanning
Lemens
Martin
Moffett
Nelson
Pace

Roberts
Shivers
Stone
of Galveston
Stone
of Washington
Sulak
Van Zandt
Weinert
Winfield

Nays—6

Burns
Graves
Isbell

Metcalfe
Moore
Redditt

Absent

Small

Absent—Excused

Head

Spears

Senator Burns offered the following amendment to the amendment (1):

Amend substitute for S. B. No. 330—After the words "feed stuff," Subsection 2 of Section 1—Lumber, and the by-products of lumber and logs.

Senator Nelson raised a point of order against consideration of the amendment to the amendment, on the ground that it is not germane to the original purposes of the bill.

The President sustained the point of order.

Senator Martin offered the following amendment to the amendment (1):

Amend Kelley substitute by adding after the words "feed stuffs" in second paragraph of Sub-section 2, Section 1, the words "a load not to exceed 14,000 pounds."

The amendment to the amendment was lost.

Senator Martin moved to reconsider the vote by which the amendment to the amendment was lost.

Yeas and nays were demanded, and the motion to reconsider was lost by the following vote:

Yeas—11

Aikin
Beck
Brownlee

Burns
Kelley
Martin

Nelson
Redditt
Roberts

Weinert
Winfield

Nays—17

Collie
Cotten
Graves
Hardin
Hill
Isbell
Lanning
Lemens
Metcalf
Moore

Pace
Shivers
Small
Stone
of Galveston
Stone
of Washington
Sulak
Van Zandt

Absent

Moffett

Absent—Excused

Head

Spears

Senator Hardin moved the previous question on pending amendments and the passage of the bill to engrossment, and the main question was ordered by the following vote:

Yeas—24

Beck
Brownlee
Burns
Collie
Cotten
Graves
Hardin
Hill
Kelley
Lanning
Lemens
Martin

Metcalf
Moffett
Moore
Nelson
Pace
Redditt
Roberts
Shivers
Small
Sulak
Van Zandt
Weinert

Nays—5

Aikin
Isbell
Stone
of Galveston

Stone
of Washington
Winfield

Absent—Excused

Head

Spears

Question recurring on the amendments (1) and (2) by Senator Kelley, they were adopted.

The Senate then refused to pass the bill to engrossment by the following vote:

Yeas—12

Aikin
Beck
Brownlee

Collie
Hardin
Kelley

Lanning
Martin
Metcalf

Moffett
Nelson
Winfield

Nays—14

Burns
Cotten
Graves
Isbell
Lemens
Moore
Pace
Redditt

Roberts
Shivers
Stone
of Galveston
Stone
of Washington
Sulak
Van Zandt

Absent

Hill

Paired

Senator Small (present), who would vote "nay" with Senator Spears (absent), who would vote "yea."

Senator Weinert (present), who would vote "nay" with Senator Head (absent), who would vote "yea."

Senator Van Zandt moved to reconsider the vote by which the Senate refused to pass the bill to engrossment.

Senator Cotten moved to table the motion to reconsider.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—15

Burns
Cotten
Graves
Hardin
Isbell
Lemens
Moore
Roberts
Shivers

Small
Stone
of Galveston
Stone
of Washington
Sulak
Van Zandt
Weinert

Nays—14

Aikin
Beck
Brownlee
Collie
Hill
Kelley
Lanning

Martin
Metcalf
Moffett
Nelson
Pace
Redditt
Winfield

Absent—Excused

Head

Spears

Message from the Governor

A Secretary of the Governor was announced by the Doorkeeper, and

was recognized by the President, to present the following message:

Austin, Texas,
April 3, 1939.

To the Senate of the Forty-sixth Legislature:

I ask the advice, consent and confirmation of the Senate to the following appointment:

To be Judge of the Seventh Judicial District of Texas:

Bascom Gist of Tyler, Smith County, Texas (to be effective April 17, 1939).

Respectfully submitted,
W. LEE O'DANIEL,
Governor of Texas.

The message was read and was referred to the Committee on Nominations of the Governor.

Report of Standing Committee

Senator Aikin, by unanimous consent, submitted at this time the following report of the Committee on Education:

Austin, Texas,
April 3, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your committee on Education, to whom was referred

S. B. No. 419, A bill to be entitled "An Act conferring additional powers on school districts having a relatively large percentage of delinquent taxes including power to borrow money and issue obligations secured by such taxes and to make supplementary pledges of taxes hereafter becoming delinquent to secure the release of funds pledged for such obligations; providing that the provisions of this Act may be cumulative of all other laws, but that in the event of conflict, the provisions hereof shall prevail; enacting provisions incident to and relating to the subject; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass but that the Committee Substitute hereto attached do pass in lieu thereof, and be not printed.

AIKIN, Chairman.

Bills and Resolution Signed

The President signed, in the presence of the Senate, after their captions had been read, the following enrolled resolution and bills:

H. C. R. No. 76, Recalling H. B. No. 267 from the Senate.

S. B. No. 255, "An Act to amend an Act of the Thirty-fourth Legislature, entitled An Act to create a more efficient road system for Lavaca County, Texas, being Chapter 75, Local and Special Laws, Regular Session, 1915, as amended by an Act of the Forty-first Legislature, being Chapter 24, Local and Special Laws, Fourth Called Session, 1930, by adding thereto Section 19, etc., and by adding thereto Section 20, authorizing the Commissioners' Court to levy a tax not exceeding Fifteen Cents on the one hundred dollars valuation for the further maintenance of the public roads in any political subdivision, Commissioners' District or defined district heretofore or hereinafter created of the County, etc., and declaring an emergency."

S. B. No. 280, "An Act validating certain outstanding road and bridge time warrants of Fayette County, Texas, heretofore issued to provide funds to aid in the construction of Highway No. 20 in Road District No. 3 of said county, and Fayette County bridge warrants heretofore issued for the purpose of aiding in constructing a bridge across the Colorado River on Highway No. 72, and authorizing the Commissioners' Court of Fayette County to fund or refund into coupon road and bridge funding or refunding bonds of said County, said time warrants to the amount of Thirty-one Thousand Two Hundred (\$31,200.00) Dollars; providing for the approval of said bonds by the Attorney General and their registration by the State Comptroller; and declaring an emergency."

H. B. No. 835, "An Act to amend Subsection 8 of Article 199 of the Revised Civil Statutes, and providing an effective date, relating to terms of District Court in Lamar and Hopkins Counties."

Adjournment

Senator Roberts moved that the Senate adjourn until 10:00 o'clock a. m. tomorrow.

The motion prevailed; and the Senate, accordingly, at 4:55 o'clock p. m., adjourned until 10:00 o'clock a. m. tomorrow.

APPENDIX

Reports of Committees on Engrossed
and Enrolled Bills

Austin, Texas,
April 3, 1939.

Hon. Coke R. Stevenson, President of
the Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. C. R. No. 29
carefully examined, compared and
read, and find same correctly en-
grossed.

LANNING, Chairman.

Austin, Texas,
April 3, 1939.

Hon. Coke R. Stevenson, President of
the Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. C. R. No. 30
carefully examined, compared and
read, and find same correctly en-
grossed.

LANNING, Chairman.

Austin, Texas,
March 31, 1939.

Hon. Coke R. Stevenson, President of
the Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. B. No. 407
carefully examined, compared and
read, and find same correctly en-
grossed.

LANNING, Chairman.

Austin, Texas,
March 31, 1939.

Hon. Coke R. Stevenson, President of
the Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. B. No. 404
carefully examined, compared and
read, and find same correctly en-
grossed.

LANNING, Chairman.

Austin, Texas,
March 31, 1939.

Hon. Coke R. Stevenson, President of
the Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. B. No. 346
carefully examined, compared and
read, and find same correctly en-
grossed.

LANNING, Chairman.

Austin, Texas,
April 3, 1939.

Hon. Coke R. Stevenson, President of
the Senate.

Sir: We, your Committee on En-
rolled Bills, have had S. B. No. 255
carefully examined, compared and
read, and find same correctly en-
rolled.

STONE of Galveston,
Chairman.

Austin, Texas,
April 3, 1939.

Hon. Coke R. Stevenson, President of
the Senate.

Sir: We, your Committee on En-
rolled Bills, have had S. B. No. 280
carefully examined, compared and
read, and find same correctly en-
rolled.

STONE of Galveston,
Chairman.

FORTY-SIXTH DAY

(Tuesday, April 4, 1939)

The Senate met at 10:00 o'clock,
a. m., pursuant to adjournment, and
was called to order by President
Stevenson.

The roll was called, and the fol-
lowing Senators were present:

Aikin	Metcalfe
Beck	Moffett
Brownlee	Moore
Burns	Nelson
Collie	Pace
Cotten	Redditt
Graves	Roberts
Hardin	Shivers
Hill	Small
Isbell	Stone
Kelley	of Galveston
Lanning	Sulak
Lemens	Van Zandt
Martin	Winfield

Absent—Excused

Head	Stone
Spears	of Washington
	Weinert

A quorum was announced present.

The invocation was offered by the
Chaplain.